

Kentucky Board of Medical Licensure

Hurstbourne Office Park
310 Whittington Parkway, Suite 1B
Louisville, Kentucky 40222
Telephone: 502/429-8046
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TO: To Whom It May Concern

FROM: Kentucky Board of Medical Licensure

RE: Information on Filing a Grievance

Pursuant to your request to register a grievance against a physician licensed in the Commonwealth, please find attached a “**Consumer Guide to the Kentucky Board of Medical Licensure (KBML)**” along with a copy of KRS 311.595, which outlines grounds for disciplinary action by the KBML against a physician. The KBML is authorized to conduct investigations, enforce regulations and impose sanctions when a violation of the law and/or regulation has occurred.

Acting through the KBML, physicians have adopted high standards of ethics and professional competence. A license to practice medicine in Kentucky obligates a physician to uphold the laws and to abide by the Medical Practice Act set forth by the Kentucky General Assembly. Those who violate these professional obligations are subject to discipline.

After reviewing this information, should you choose to file a grievance, please complete the “***Grievance Form***” and return to this office. This form must be signed and notarized, providing the dates, location and the full names and addresses of all physicians involved and the particular section of the statute that you feel the physician has violated with a description of the conduct.

Consumer Guide To The Kentucky Board of Medical Licensure (KBML)

Introduction

Sometimes, health care services can fall below a patient's expectations. As a health care consumer, you should know what you can do to ensure that you receive quality health care. This means knowing what to do when the care you receive is not of the quality you deserve.

Did you know that the Kentucky Board of Medical Licensure

- Licenses and regulates physicians
- Regulates and certifies physician assistants and athletic trainers
- Receives and investigates complaints regarding quality of care and competency issues?

This **Consumer Guide to the Kentucky Board of Medical Licensure** is designed to answer questions you might have as a patient, as well as tell you what the KBML can do for you.

The following information will provide you with a step-by-step guide through the complaint process. It is hoped that this information will encourage you to contact the KBML when you have legitimate concerns about your physician or other health care providers noted above.

What Is The State Medical Board? What Does It Do?

The KBML is the state agency that administers Kentucky regulatory laws for medical physicians (M.D.'s), osteopathic physicians (D.O.'s), physician assistants (P.A.'s) and athletic trainers. Practitioners licensed by the KBML are called "licensees."

The KBML handles general consumer complaints about its licensees and may directly discipline those who violate the public health and safety standards set by the legislature and the KBML. The KBML may refer a complaint to a more appropriate agency if necessary.

The KBML does not license chiropractors, dentists, nurses, psychologists, physical therapists, and a number of other health care providers. Grievances about these professionals should be directed to the regulatory agencies by which they are licensed.

Who Are The Members Of The KBML?

The KBML consists of fifteen members, including the Commissioner of Public Health, the deans of the University of Kentucky College of Medicine, the University of Louisville School of Medicine and the Pikeville College of Osteopathic Medicine. Ten members are appointed by the Governor and serve for a four-year term. Of the members appointed by the Governor, one member is a licensed osteopathic physician, seven members are licensed

medical physicians and three members are citizens at large who are representatives of recognized consumer advocacy groups with an interest in the delivery of health care.

What Kinds Of Grievances Does The KBML Handle?

The KBML can discipline its licensees for violations of the Kentucky Medical Practice Act. Grounds for discipline include:

- Impairment of ability to practice due to drug or alcohol abuse, or due to physical or mental illness
- Failing to meet minimal standards of care in treating patients
- Prescribing drugs in an inappropriate manner or without legitimate reason
- Inappropriate sexual conduct/conviction of misdemeanor in the course of practice or conviction of a felony
- Falsifying information; fraud
- Performing duties beyond the scope of a license
- Failing to meet continuing medical education requirements

What Kind Of Grievances Are Not Handled By The KBML?

The KBML cannot:

- Help you sue a health care provider for money
- Handle a fee dispute between you and your physician
- Discipline practitioners who are not licensed by the KBML (for example, a doctor licensed in another state, or a person licensed by another state agency, such as a nurse or a physical therapist)
- Get money back that you feel is owed to you
- Resolve questions about disability compensation or insurance reimbursement

The KBML will answer any questions you may have about whether we can handle your grievance. If the KBML cannot handle your grievance, you may be referred to another agency.

Do I Need An Attorney To Handle My Grievance?

You do not need an attorney to file your grievance with the KBML or to follow through with it. The KBML can take action against a health care provider's privileges to practice, but it cannot help you sue a health care provider for money.

What Is The Grievance Process?

To maintain confidentiality and assure that every grievance brought to the KBML's attention is reviewed, each case is assigned a grievance number. Your grievance is initially reviewed by the Board's Executive Director to determine whether the KBML has the legal authority (jurisdiction) to act in your case.

The KBML's jurisdiction is defined by the state statutes (Medical Practice Act). The KBML would not have jurisdiction, for example, if your grievance was about a physician's refusal to accept Medicare patients, or about overcharging you for services actually performed, because these actions are not regulated by the state statutes the KBML enforces.

Although all grievances are evaluated, many grievances do not result in disciplinary action. The KBML's Inquiry Panels review each grievance to determine if there is sufficient evidence to show that a violation of the Medical Practice Act has occurred. If it is determined that there is not a sufficient basis for proceeding with formal disciplinary action, you will receive a letter telling you that your grievance has been closed.

If the KBML has jurisdiction, the case may be assigned to one of the its investigators. In some instances, outside medical experts will also assist in reviewing a grievance.

Depending on the nature of the grievance, the KBML's investigator may gather information from any of the following sources: you, the grievant; the patients, other than the grievant; the licensee's co-workers; and other sources, such as police agencies or hospital and pharmacy records. The investigator will also contact the physician involved to discuss the grievance.

For additional information about the KBML or the grievance process, please look under the heading "Filing a Complaint" on the KBML's web page at www.kbml.ky.gov.

What Is The Disciplinary Process?

After the KBML's Inquiry Panel votes to issue formal charges, a Complaint will be sent to the licensee giving written notice of the charges and of the opportunity to request an administrative hearing. The hearing is held before a Hearing Officer appointed by the State Attorney General's Office and is generally open to the public. The licensee may be represented by an attorney or may present his or her own case. In some cases, the licensee will send his or her arguments in writing instead of coming to the hearing. The hearing is similar to a civil trial: evidence and witnesses are presented, and questions and answers are given by both sides.

After the hearing, the Hearing Officer files a summary of the case and a proposed decision with the KBML's Inquiry Panel. A copy of the Hearing Officer's Findings is sent to the licensee, who has ten days to file written objections.

Before discussing the case and rendering a final decision, the Panel reviews the Hearing Officer's Findings of Fact and conclusions of Law and recommendation, and any objections filed by the licensee. The members of the Panel can accept, reject or modify the Hearing Officer's recommendation.

How Do I Find Out About The Progress Of My Case?

Once a Panel has authorized disciplinary action, you may find out the status of your case by calling the KBML's legal department at (502) 429-8046, ext. 240 between 8:00 a.m. and 4:30 p.m., Monday through Friday.

What Type Of Disciplinary Action May Be Taken By The KBML's Inquiry Panel?

The Panel may dismiss the case if it feels no violation has occurred or if evidence is insufficient to support a finding of a violation. However, if the Panel decides that there has been a violation, it may choose one of the following formal disciplinary actions:

- Reprimand the licensee
- Suspend the physician's license
- Put the license on probation under a variety of terms and conditions
- Permanently revoke the physician's license
- Limit the practitioner's license (e.g., limit the type of procedures the licensee may perform)
- Fine the licensee

In emergencies, the KBML's Inquiry Panel has the authority to temporarily suspend a physician's license pending a hearing. This is called an Emergency Suspension Order.

For cases involving application for licensure, the KBML may choose to deny the physician's application.

At any time after a complaint is filed, the licensee and the KBML's General Counsel may negotiate a resolution or "Agreed Order." The Panel must ratify all Agreed Orders.

A licensee may also surrender licensure if the Panel is willing to accept it.

Can A Licensee Appeal The KBML's Decision?

If a Panel of the KBML formally disciplines a licensee, the licensee may appeal the Panel's decision to the Jefferson County Circuit Court. The licensee may try to keep the KBML from enforcing its disciplinary measures during the appeal process by getting an order from the court called a "stay order." A stay prevents all or part of the disciplinary order from going into effect until a decision on the appeal is made.

How Can I Find Out If A Doctor Licensed In Kentucky Has Been Disciplined?

You may write to the KBML's legal department, pursuant to Chapter 61 of the Kentucky Open Records law to find out if a doctor has been disciplined in Kentucky or access the website at www.kbml.ky.gov and click on physician profile.

Disciplinary Actions Are Reported To Entities Including:

- State, local and national medical associations
- Hospitals in the state
- Federation of State Medical Boards
- National Practitioners Data Bank

Other states are informed of disciplinary actions through national data banks. The KBML also uses data banks to get reports of formal disciplinary actions taken in other states against Kentucky licensees.

Can I Get A Monetary Award Or Other Relief If The KBML Disciplines A Licensee?

The KBML does not have the authority to award monetary damages. It also cannot:

- Get money back that you believe is due you
- Settle disputes between you and your physician
- Compel corrective action

These functions are primarily for the courts. Making a complaint to the KBML is not the same thing as filing with a civil court.

Help Yourself Be A Smart Health Care Consumer

Throughout the year the KBML receives grievances against physicians practicing in the state. Many times, the grievances turn out to be simple misunderstandings between the physician, the patient, or the patient's family that can be resolved without the intervention by the KBML or other agency. You can help yourself be a smart health care consumer by considering the following suggestions:

- Discussing your concerns with your physician
- Asking about the physician's fees when scheduling an appointment
- Understanding your insurance policy coverage
- Checking with your insurance carrier to be sure that your physician is an approved provider for the insurance plan.

What Other Agencies Help the Health Care Consumer

Besides the KBML, there are several other agencies that assist health care consumers. The agency you choose may depend on the nature of your complaint or inquiry. Some of the agencies, which may be of assistance to you, are as follows:

Kentucky Cabinet for Health Services

Department for Public Health

275 East Main Street
Frankfort, KY 40621
Telephone: (502) 564-3970

Kentucky Hospital Association

1302 Clear Spring Trace
P. O. Box 24163
Louisville, KY 40224
Telephone: (502) 426-6220
(This private association reviews complaints involving hospitals.)

American Board of Medical Specialties

(800) 776-CERT (2378)

(Callers may find out if a physician is certified by a specialty board recognized by the American Board of Medical Specialties.)

American Osteopathic Association (AOA)

142 East Ontario Street

Chicago, IL 60611

(312) 202-8000

(Callers may find out if a physician is certified by a specialty board recognized by the American Board of Osteopathic Association.)

American Board of Podiatric Surgery

3330 Mission

San Francisco, CA 94110

(415) 826-3200

(Callers may find out if a physician is certified by a specialty board recognized by the American Board of Podiatric Surgery.)

Kentucky Medical Association (KMA)

The KMA Building

4965 US Highway 42, Suite 2000

Louisville KY 40222-6301

(502) 426-6200

Kentucky Osteopathic Association (KOA)

1501 Twilight Trail

Frankfort, KY 40601

Kentucky Academy of Physician Assistants

P O Box 23251

Lexington, KY

(502) 473-0007, (888) 884-KAPA

Your Insurance Carrier

Most insurance companies have consumer divisions, which are equipped to take complaints or solve billing disputes.

311.595 Denial, probation, suspension, or revocation of licenses and permits.

If the power has not been transferred by statute to some other board, commission, or agency of this state, the board may deny an application or re-registration for a license; place a licensee on probation for a period not to exceed five (5) years; suspend a license for a period not to exceed five (5) years; limit or restrict a license for an indefinite period; or revoke any license heretofore or hereafter issued by the board, upon proof that the licensee has:

- (1) Knowingly made or presented, or caused to be made or presented, any false fraudulent, or forged statement, writing, certificate, diploma, or other thing, in connection with an application for a license or permit;
- (2) Practiced, or aided or abetted in the practice of fraud, forgery, deception, collusion, or conspiracy in connection with an examination for a license;
- (3) Committed, procured, or aided in the procurement of an unlawful abortion;
- (4) Entered a guilty or nolo contendere plea, or been convicted, by any court within or without the Commonwealth of Kentucky, of committing an act which is, or would be a felony under the laws of the Commonwealth of Kentucky, or of the United States, or of any crime involving moral turpitude which is a misdemeanor, under the laws;
- (5) Been convicted of a misdemeanor offense under KRS Chapter 510 involving a patient, or a felony offense under KRS Chapter 510, 530.064, or 531.0310, or been found by the board to have had sexual contact as defined in KRS 510.010(7) with a patient while the patient was under the care of the physician;
- (6) Become addicted to a controlled substance;
- (7) Become a chronic or persistent alcoholic;
- (8) Developed a physical or mental disability, or other condition, that continued practice is dangerous to patients or to the public;
- (9) Engaged in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public or any member thereof;
- (10) Knowingly made, or caused to be made, or aided or abetted in the making of, a false statement in any document executed in connection with the practice of his profession;
- (11) Employed, as a practitioner of medicine or osteopathy in the practice of his profession in this state, any person not duly licensed or otherwise aided, assisted, or abetted the unlawful practice of medicine or osteopathy or any other healing art;
- (12) Violated or attempted to violate, directly or indirectly, or assisted in or abetted the violation of, or conspired to violate any provision or term of any medical practice act, including, but not limited to, the code of conduct promulgated by the board under KRS 311.601 or any other valid regulation of the board;
- (13) Violated any agreed order, letter of agreement, order of suspension, or the terms or conditions of any other of probation, issued by the board;
- (14) Engaged in or attempted to engage in the practice of medicine or osteopathy under a false or assumed name, or impersonated another practitioner of a like, similar, or different name;

- (15) Obtained a fee or other thing of value on the fraudulent representation that a manifestly incurable condition could be cured;
- (16) Willfully violated a confidential communication;
- (17) Had his license to practice medicine or osteopathy in any other state, territory, or foreign nation revoked, suspended, restricted, or limited or has been subjected to other disciplinary action by the licensing authority thereof. This subsection shall not require relitigation of the disciplinary action;
- (18) Failed or refused, without legal justification, to practice medicine in a rural area of this state in violation of a valid medical scholarship loan contract with the trustees of the rural Kentucky medical scholarship fund;
- (19) Given or received, directly or indirectly, from any person, firm, or corporation, any fee, commission, rebate, or other form of compensation for sending, referring, or otherwise inducing a person to communicate with a person licensed under KRS 311.530 to 311.620 in his professional capacity or for any professional services not actually and personally rendered; provided, however, that nothing contained in this subsection shall prohibit persons holding valid and current licenses under KRS 311.530 to 311.620 from practicing medicine in partnership or association or in a professional service corporation authorized by KRS Chapter 274, as now or hereinafter amended, or from pooling, sharing, dividing, or apportioning the fees and monies received by them or by the partnership, corporation, or association in accordance with the partnership agreement or the policies of the board of directors of the corporation or association. Nothing contained in this subsection shall abrogate the right of two (2) or more persons holding valid and current licenses under KRS 311.530 to 311.620 to receive adequate compensation for concurrently rendering professional care to a single patient and divide a fee, if the patient has full knowledge of this division and if the division is made in proportion to the services performed and responsibility assumed by each;
- (20) Been removed, suspended, expelled, or disciplined by any professional medical association or society when the action is based upon what the association or society found to be unprofessional conduct, professional incompetence, malpractice, or a violation of any provision of KRS Chapter 311. This subsection shall not require relitigation of the disciplinary action; or
- (21) Been disciplined by a licensed hospital or medical staff of the hospital, including removal, suspension, limitation of hospital privileges under pressure of investigation, or other disciplinary action if the action was based upon what the hospital or medical staff found to be unprofessional conduct, professional incompetence, malpractice, or a violation of any provisions of KRS chapter 311. This subsection shall not require relitigation of the disciplinary action.

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Grievance Form

(This Form Must Be Typed Or Legibly Printed)

The Kentucky Board of Medical Licensure is a public agency and your completed grievance form may become an open record pursuant to KRS 61.870, Subsection (2).

Date: _____

Name and Address of Grievant:

Name and Address of Physician Against Whom
Grievance is Made:

Telephone: () _____

Details of Grievance: State in detail all facts, which you believe justify your grievance. If possible, state whether the information is within your personal knowledge, and if not, the source or sources of the information. Also attach any records, documents, letters or other materials that are pertinent to your grievance.

The Following Statement is a Sworn Statement:

cont a)

Signature of Grievant

SEAL

My Commission Expires:_____

Referred By:_____ **Investigator:**_____

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WAIVER OF PRIVILEGE AGREEMENT TO RELEASE RECORDS

Upon receipt of a photostatic or other copy hereof, you are authorized to release to the representative of the Kentucky Board of Medical Licensure for inspection and copying all records in your possession pertaining to me, to discuss with them fully any information you may have about me, and to furnish them a full report concerning me.

This authorization includes medical records, including all hospital records, psychiatric and psychological records, records of physicians and other medical personnel, records of drug abuse, records of alcohol abuse, prescriptions and drug records, and any and all records relating to my physical and mental condition.

Prohibition of Redisclosure: This information has been disclosed in compliance with Federal Regulations (42 CFR Part2) which prohibits further disclosure of this information except with specific written consent of the person to whom it pertains. A general authorization for the release of medical or other information, if held by another party, is not sufficient for this purpose. Federal Regulations state that any person who violates any provision of this law shall be fined not more than \$500, in the case of a first offense, and not more than \$5,000 in the case of each subsequent offense.

FOR PURPOSES OF IDENTIFICATION:

1. Full Name: _____
2. Date of Birth: _____
3. Social Security Number: _____

Date: _____ Signature: _____

Commonwealth of Kentucky

_____ personally appeared before me, and being duly sworn, subscribed their name and signature to this authorization and acknowledged it to be their free and voluntary act and deed.

Notary Public

My Commission Expires: _____.